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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,138	02/19/2004	George S. Creighton	091078.1261	5217

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EXAMINER

LE, MARK T

ART UNIT

PAPER NUMBER

3617

DATE MAILED: 07/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/782,138	Applicant(s) CREIGHTON ET AL.	
	Examiner Mark T. Le	Art Unit 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-21, 23 and 30-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-13, 15-19 is/are allowed.
- 6) ☒ Claim(s) 14, 20, 21, 23 and 30-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/04; 10/04</u> | 6) <input type="checkbox"/> Other: _____ |

3.0.0

DETAILED ACTION

1. Applicant's election with traverse of Species IV, shown in Figures 3-6 and 13, including claims 12-21, 23 and 30, in the reply filed on June 15, 2005 is acknowledged. Applicant has cancelled many claims drawn to non-elected inventions, and requested the examiner to reconsider the restriction requirement to claims 31-33. Currently, since an examination of all remaining pending claims would not be a significantly greater burden on the examiner, the examiner agrees to exam all current pending claims.
2. The abstract of the disclosure is objected to because the abstract should be a concise statement of the technical disclosure of the patent, and it should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art. Correction is required. See MPEP § 608.01(b).
3. Claims 14 and 31-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 14, line 2, the instant claimed structures associated with the word "type" are indefinite because it is not clear as to what structures are covered by the instant claimed type.

In claim 31, line 5, the expression "the sidewall assemblies mounted on the railway car underframe the floor assembly" appears to be incomplete and confusing.

Proper correction is required.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 31 is rejected under 35 U.S.C. 102(b) as being anticipated by Zhan (US 6,494,651).

Zhan discloses an insulated boxcar having all the features as recited in the instant claims, including cargo anchors 12 disposed within the floor assembly at the locations proximate the door opening in each sidewall assembly.

Regarding the instant claimed drain system, consider mounting bracket 30 of Zhan coupled cargo anchor 12, wherein, the mounting bracket 30 is configured with a surface such that should any liquid enter the anchor and fall on the surface, the liquid would run off the mounting bracket; therefore, the mounting bracket is readable as part of a drain system that prevents the collection of water or any other liquid from the anchor, as broadly recited in the instant claim.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zhan (US 6,494,651) in view of Delay (US 6,626,623).

Zhan is applied above.

Regarding the instant claimed U-shaped channel defining a drain system and a cargo anchor cavity, Applicant should consider an alternative cargo anchor structure shown in Delay; wherein, there is an elongated anchor plate 30 provided with a plurality of openings 38, a U-shaped channel 42, 44, 46 attached to anchor plate 30; and wherein, the U-shaped channel includes two open ends forming openings that inherently would allow water to run off.

In view of Zhan, it would have been obvious to one skilled in the art to substitute an alternative cargo anchor structure, similar to that taught by Delay, for the cargo anchor structure of Zhan so as to achieve expected advantages and performance of Delay's structure.

8. Claims 20-21, 23, 30 and 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thoman (US 6,138,580) in view of Nadherny (US 6,402,446) in view Zhan (US 6,494,651).

Thoman discloses an insulated boxcar similar to that recited in the instant claims, except for the instant claimed cargo restrain system and cargo anchors.

Nadherny discloses a cargo restrain system including a plurality of cargo anchor assemblies 59; wherein, the anchor assemblies 59, which are closest to the floor, are readable as portions of the floor anchor system that is disposed within a respective sidewall assembly; and the other cargo anchor assemblies 59, which are higher up on the sidewall assemblies, are readable as sidewall anchor assemblies.

Zhan, Figures 5-6, shows two cargo anchors 12 disposed adjacent to the doorways of a boxcar for securing a load to the floor at an area adjacent to the doorways.

In view of Nadherny, it would have been obvious to one skilled in the art to provide a cargo restrain system including a floor anchor system and a plurality of sidewall anchor assemblies, similar to that taught by Nadherny, in the sidewall assemblies of Thoman for securing certain types of loads to the sidewall assemblies; and in view of Zhan, it would have been obvious to one skilled in the art to further provide cargo anchors, similar to anchors 12 of Zhan, in the floor assembly near the door openings of Thoman for allowing securing loads near the door openings because the teaching of Nadherny does not include anchors for securing loads near the door openings.

Regarding the instant claimed structure; wherein, no other cargo anchors disposed within the floor assembly, note that the structure of Thoman, as modified, includes cargo anchors similar to that of Nadherny on the respective sidewall assemblies, and cargo anchors similar to anchors 12 of Zhan in the floor area near the door openings. As to the instant claimed no other cargo anchor disposed within the

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floor assembly, note that it would not have been obvious to one skilled in the art to also provided other floor anchors, such as floor anchors 14 of Zhan, in the structure of Thoman at areas other than near the door openings because such other floor anchors would be redundant in view of the presence of the cargo anchors on the wall assemblies of Thoman, as modified.

9. Claim 14 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Claim 33 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 12-13 and 15-19 are allowable.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant should further consider the structures of Snyder, Davis, Frost and Martin.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Le whose telephone number is 571-272-6682. The examiner can normally be reached on Mon-Fri (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark T. Le
Primary Examiner

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